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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,093	04/03/2001	Bern B. Niamir	E194 0002 GNM/sks	9338

720 7590 07/13/2006

OYEN, WIGGS, GREEN & MUTALA LLP
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CANADA

EXAMINER

RIMELL, SAMUEL G

ART UNIT PAPER NUMBER

2164

DATE MAILED: 07/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Notice of Abandonment

Application No.

09/824,093

Examiner

Sam Rimell

Applicant(s)

NIAMIR, BERN B.

Art Unit

2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 02 December 2005.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☒ A reply was received on 6/2/06, 6/3/06 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet



Sam Rimell
Primary Examiner
Art Unit: 2164

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment: The office action was mailed on December 2, 2005. Applicant provided two replies on the last day of the statutory period, June 2, 2006 and a third reply after the statutory period, June 3, 2006. The replies are incomplete because:

(1) They did not include the fee for a three month extension of time; (2) They were not submitted by one of the appointed representatives listed in the power of attorney; (3) No amendments or arguments were specifically indicated for the rejected claims. Accordingly, the application is abandoned.

It is noted that a willingness to amend the claims or provide the necessary fees is not sufficient to address a statutory rejection. The payment of fees and submission of amendments to the claims must be completed during the six month statutory period after the examiner's action is mailed out, which means that the fees and amendments should have been submitted on or before June 2, 2006. They also need to be submitted by the representatives listed in the power of attorney.

AVALIST NETWORKS INC.

JUN 02 2006

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Tel: 1 604 922 1882
Fax: 1 604 653 1282

TRANSMITTAL

To: US Patent Office

Date: June 2, 2006

Attn: Mr. Haythim Alaudakdi
Tel: 571 272 4014
Fax: 571 273 8300

Re: application # 09/824,093, Art Unit 2168

Via: (x) fax, () courier, (x) mail, () email

Total pages, including this cover page: 1. If not received as listed, please notify.

Certificate of Fax Transmission: I, Bern B. Niamir, hereby certify that this response has been
transmitted on June 2, 2006, 8:55 pm Pacific Standard Time.

In response to Office Action Summary Dec 2, 2005:

- 1- we accept rejection of claims 113 and 114.
- 2- We accept allowance of claims 39 - 112.
- 3- Claims 8 - 17, 30 and 31 will be satisfactorily clarified and amended.
- 4- A number of claims that have been rejected due to rejected dependency, will have their dependency corrected to satisfaction.
- 5- We will act to the satisfaction of the examiner.
- 6- We will pay the necessary Patent Extension Fee.

Best regards.

Sincerely Yours,
AVALIST NETWORKS INC.
Bern B. Niamir
Mobile: 778 839 8777
Email: bern@avalist.com



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TRANSMITTAL

To: US Patent Office

Date: June 2, 2006

Attn: Mr. Haythim Alaudaidi
Tel: 571 272 4014
Fax: 571 273 8300

Re: application # 09/824,093, Art Unit 2168

Via: (x) fax, () courier, (x) mail, () email

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Dear Sir:

We were recently notified of this matter - and wish to file for an extension, so we can supply you with further detail regarding this patent application. You are hereby authorized to charge our account for the cost of such extension.

We do not agree on all the rejections (Item 7 on Office Action Summary dated 20051127). We believe that Item #18 for example has merit.

I have left you a voice message, but you will not be in the office until June 23. I have tried to reach Mr. Tim Wu.

Please contact me directly on this matter. Thank you.

I will contact you as soon as possible.

Sincerely Yours,
AVALIST NETWORKS INC.
Bern B. Niamir
Mobile: 778 839 8777
Email: bnm@avalist.com



JUN 03 2006

AVALIST NETWORKS INC.www.avalist.com1641 Lonsdale Ave. #808
North Vancouver, BC
CANADA V7M 2J5Tel: 1 604 922 1882
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Via: (x) fax, () courier, (x) mail, () email

Total pages, including this cover page: 1. If not received as listed, please notify.

Certificate of Fax Transmission: I, Bern B. Niamir, hereby certify that this response has been transmitted on June 2, 2006, 11:55 pm Pacific Standard Time.

In response to Office Action Summary Dec 2, 2005:

- 1- Claims 8 - 17, 30 and 31 has been rewritten in independent form considering all of the limitations of the base claim and any intervening claims, in consideration to Walker et al, US Patent # 6,108,639.
- 2- We will perform to the satisfaction of the examiner.
- 3- We will pay the necessary Patent Extension Fee.

Best regards.

Sincerely Yours,
AVALIST NETWORKS INC.
Bern B. Niamir
Mobile: 778 839 8777
Email: bern@avalist.com